HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION No.21284 of 2004

Date: 12-7-2006

Between:

M/s. Vigneswara Talkies, Chebrolu, Guntur District, rep. by its Managing Partner, G. Vishwanath Reddy .. Petitioner

And

The Joint Collector, Licensing Authority, (Cinemas – Home), Guntur, Guntur District and two others .. Respondents

ORDER:

Sri K. Durga Prasad, learned advocate for the writ petitioner is heard. Respondent Nos.1 to 3 are unrepresented.

This writ petition is directed against the proceedings of the Joint Collector, Licensing Authority, Guntur in D.Dis. No.1479/98-C1, dated 01-11-2004.

In the impugned proceedings, the Joint Collector passed the order in pursuance of the remand of the matter to him for consideration by virtue of the orders of this Court in W.P. No.4469 of 2000, dated 08-11-2002. He has considered the claims of the persons claiming to be shareholders in the subject theatre and their allegation that they were excluded from the income and profits of the theatre by the writ petitioner managing the theatre. As the disputes between the partners have to be resolved through Court of law or outside the Court between the parties, the Joint Collector thought that the B-Form licence should be revoked with immediate effect till such settlement of the dispute. He considered that existence of disputes makes the possession of the writ petitioner to be not lawful.

In W.P.M.P. No.27876 of 2004, this Court ordered on 22-11-2004 that prima facie, it is evident that the licensing authority has taken a view that the petitioner cannot be said to be in lawful possession of the building and machinery on the sole ground that there are disputes among the partners and observed that even assuming that the third respondent holds 0.06 paise

share in the building and machinery, the possession of the petitioner over the rest of the property cannot be said to be unlawful. Consequently, the impugned proceedings were suspended pending the writ petition.

The respondents did not appear to have filed any counter to the writ petition so far, and even from the orders in W.P. No.4469 of 2000, dated 08-11-2002, it is evident that what was directed by this Court is consideration of the fact whether there was any legal transfer of the shares between the parties. That consideration was obviously not done in the impugned order and the Joint Collector merely reproduced the respective contentions of the parties. Whether he states it or not, civil disputes are liable to be determined either before a Civil Court or through settlement between the parties, but the question is whether the existence of disputes makes the continuance in possession and management of the theatre by one of the admitted shareholders unlawful. The earlier possession, which was legal, does not become illegal because of some disputes between the parties and what has persuaded this Court to grant interim directions should equally persuade this Court to grant the final relief.

Therefore, the writ petition is allowed without costs and the impugned proceedings of the Joint Collector in D. Dis. No.1479/98-C1, dated 01-11-2004 are quashed.

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G. BHAVANI PRASAD, J

Date: 12-7-2006

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